

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

VICKI EILEEN HOLLAND,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

Case No. 3:16-cv-02036-JR
OPINION AND ORDER

AIKEN, Judge:


On December 4, 2017, Magistrate Judge Russo filed her Findings and Recommendation (“F&R”) (doc. 24), recommending this Court reverse and remand for an immediate payment of benefits as of plaintiff Vicki Holland’s sixtieth birthday and for further proceedings regarding the period of alleged disability preceding plaintiff’s sixtieth birthday. The F&R is now before me pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. I review *de novo* those portions of the F&R to which objection is made. 28 U.S.C. § 636(b)(1)(C); *accord* Fed. R. Civ. P. 72(b)(3); *Holder v. Holder*, 392 F.3d 1009, 1022 (9th Cir. 2004).

As identified in their objections to the F&R, the parties' dispute focuses on the meaning of the vocational expert's ("VE") testimony regarding the vocational adjustments that would be necessary for plaintiff to transition to light work. I agree with Judge Russo that the VE unambiguously answered "no" when asked whether those adjustments would be "little, if any" under the Grid Rules. The VE's follow-up statement that the transition would be "minimal" does not create ambiguity on this point; reading the VE's statements together, it is clear that the VE meant that the vocational adjustments would not be substantial but nonetheless would exceed the minimal adjustments permitted under the Grid Rules.

Having performed an independent review of the record, I agree that remand for an immediate award of benefits is the correct result with respect to the period after plaintiff turned sixty. I ADOPT Judge Russo's F&R (doc. 24). This case is REVERSED AND REMANDED for an immediate award of benefits beginning December 22, 2014, and for further proceedings with respect to the period preceding that date.

IT IS SO ORDERED.

Dated this 6th day of February 2018.



Ann Aiken
United States District Judge